



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAR 21 2013

Mr. Drew DeBerry
Deputy Commissioner
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

Dear Mr. DeBerry:

Enclosed is the "End-of-Year Review of the FY 2012 Texas Department of Agriculture Cooperative Agreement for Pesticides".

Review by the Region 6 Environmental Protection Agency pesticides staff was conducted by an on-site visit in Austin with your Pesticides Division's staff during December 13-14, 2012. The reports provided by your staff allowed us to document your program efforts and demonstrate the environmental benefits resulting from those efforts. Thank you for working with us on the national focus towards program accountability and performance measurement.

We have no formal recommendations in regard to the End-of-Year Review. Should you have any questions or comments, please contact Lee McMillan, your EPA Project Officer at 214-665-6404.

Sincerely,

A handwritten signature in black ink, which appears to read "D. F. Garcia", is positioned above the printed name.

David F. Garcia
Acting Director
Multimedia Planning
and Permitting Division

Enclosure

Internet Address (URL) • <http://www.epa.gov>



U.S. Environmental Protection Agency

End of Year Review of the
FY 2012
Texas Department of Agriculture Cooperative Agreement for Pesticides

March 22, 2013

I. BACKGROUND

A. General

1. **Project Period:** Start Date: September 1, 2011
End Date: August 31, 2012
2. **EPA Assistance Agreement Number:** E-00635512
3. **Review method:** On-Site Review at the Texas Department of Agriculture Pesticide Division office in Austin, Texas.
4. **Review participants:**
 - EPA: Lee McMillan, Project Officer, Texas Department of Agriculture
Blake Sieminski, Enforcement Officer
 - State: Randy Rivera, Administrator for Agriculture Protection and Certification
David Gipson, Assistant General Counsel
Jan Fults, Director for Environmental and Biosecurity Programs
Leslie Smith, Director for Consumer Service Protection
Michael Kelly, Compliance Coordinator, Structural Pest Control Service
April Dickerson, Registration Specialist
Billy Henderson, Registration Specialist
Dale Scott, Registration Specialist
Kevin Haack, Registration Specialist
Rebecca Wendell, Case Preparation Officer
5. **Review date(s) and location:** The end of year (EOY) review of the Texas Department of Agriculture Pesticides Program occurred December 13-14, 2012 in Austin, Texas.

B. Scope of Review

This is the EOY review for the **cooperative agreement** between the U.S. Environmental Protection Agency Region 6 (EPA) and the Texas Department of Agriculture (TDA). This review is a joint evaluation as described in the work plan and 40 CFR §35.115. Program accomplishments, effectiveness, problem areas, suggestions for improvement, and any resolutions to problems are described in the sections that follow.

II. FINANCIAL

A. Budget Analysis

The following table summarizes funding and expenditures.

Work Plan Component	EPA Funding	State Funding	Total Funding	Funds Still Available
Enforcement	\$ 898,761	\$ 158,604	\$ 1,057,365	\$0
C&T	\$ 109,157	\$ 109,157	\$ 218,314	\$0
Programs (WPS, GW, ES) ¹	\$ 157,416	\$ 27,778	\$ 185,194	\$0
TOTAL	\$1,165,334	\$ 295,539	\$ 1,460,873	\$0

¹ WPS = Worker Protection Standard, GW = Ground Water Program, and ES = Endangered Species Program

NOTE: As of December 11, 2012, the Final Financial Status Report (FSR) was received and processed. The cooperative agreement is financially closed. The Close-Out Inquiry was signed by the Project Officer on December 11, 2012.

B. Re-budgeting

There was no re-budgeting by TDA during this year.

III. COOPERATIVE AGREEMENT ADMINISTRATION

A. Post-award checklist

The post-award checklist is completed by EPA and placed in the TDA Cooperative Agreement file. This documents, as required by the EPA Grant Programs Office, that TDA did use Cooperative Agreement funding from EPA for items outlined in our Government Performance Results Act (GPRA) Goal 4.1, Ensuring the Safety of Chemicals and Preventing Pollution, and Goal 5.1, Enforcing Environmental Laws as well as the Work Program negotiated for the cooperative agreement.

B. Recommended Actions from our Grant Programs office.

There were no recommendations from our Region 6 Grant Programs office.

IV. COMPLIANCE AND ENFORCEMENT

A. State Reports

1. Pesticide Assessment Rating Tool (PART), the Enforcement Outcome Measures report was included with the FY 2012 EOY Report from the TDA as required in the FY 2012 Cooperative Agreement. Below is a summary of the final 2012 PART Measures from TDA:

- a. The first measure indicates that TDA has a repeat violator measure of 12.8%

- b. The second measure indicates that TDA verified compliance in 2.5% of its enforcement actions out of 888 total enforcement actions.
 - c. The third measure indicates that TDA uses approximately \$3,838.75 for each enforcement action.
2. 5700-33H reports were submitted to EPA Region 6 for FY 2012. These reports provide an annual summary of inspections and enforcement actions in Texas and reflect activities for inspections and enforcement of the Texas Department of Agriculture's Pesticides Division.

TDA enforcement actions for FY 2012 include **90** warning letters and **117** cases where fines were assessed. TDA had no license/certification suspensions, license/certification revocations, or license/certification conditions/modifications. A total of **3,559** inspections were completed by TDA in FY 2012. TDA had a total of **213** stop-sale, seizure, quarantine, or embargo of products. The largest number of inspections completed by TDA included **2,451** Certified Applicator Records inspections, **545** Restricted Use Dealer inspections followed by **310** Agricultural inspections.

B. Case File and Enforcement Action Evaluation

1. Significant Cases (FIFRA Section 27)

There were no FIFRA Section 27 cases in Texas during FY 2012.

2. Routine Cases – other than Worker Protection

EPA staff review all inspection reports from referrals sent to TDA. The federal inspections completed include narratives, receipts for samples, photos of products, labels, invoices, and shipping records. Federal inspections at producer establishments were also conducted by TDA.

The following case and inspection files were reviewed. A State Case Review Checklist was completed for each.

<u>Case/Inspection #</u>	<u>Complainant</u>	<u>Type</u>	<u>Outcome</u>
Lone Star Ranch and Outdoor – Case #: 00005232	Enger Farms, LLC	Follow-Up / Ag	Notice of Violation -- \$250
Mark Lane – Case #: 00010577	Keith Gutowsky	Follow-Up / Ag	Notice of Violation -- \$400

<u>Case/Inspection #</u>	<u>Complainant</u>	<u>Type</u>	<u>Outcome</u>
Macon Bodle – Case #: 00008952	Tommy Sorka	Follow-up / Ag	Notice of Violation -- \$400
Max Moore – Case #: 00010199	Chad Averette	Follow-up / Non-Ag	Notice of Violation -- \$500
Whitley Pest Control – Case #: 00010516	Texas Department of Ag	Routine / Non-Ag	Notice of Violation -- \$250
Larry Brule & Christina Dreyfus – Case #: 0010114	Jamie Mathis	Follow-up / Non-Ag	Notice of Violation -- \$200
Subway (John Hutchens) – Case#: 00007499	Jonathan Applegate	Follow-up / Non-Ag	Notice of Violation -- \$400
Alco Pest Contro – Case#: 00009793	Ashley Barragan	Follow-up / Non-Ag	Notice of Violation -- \$750
Walter Gless, Jr. – Case#: 00007341	Tom Dans	Follow-up / Ag / WPS	(2) Notices of Violation -- \$800, \$1,025
Rio Queen Citrus, Inc. – Case#: 00006587	Texas Department of Ag	Follow-up / Ag / WPS	Notice of Violation -- \$600
Dan Houchin – Case#: 00009445	Mendy Houchin	Follow-up / Ag / WPS	Notices of Violation -- \$850
Jose Olevera – Case#: 00009185	Texas Department of Ag	Follow-up / Ag / WPS	Warning Letter

The case files reviewed were consistent in their content. TDA has made an effort this year to streamline all of its reports to enhance consistency via a structured format for documentation. TDA enforcement actions were consistent with their Enforcement Response Policy penalty matrix.

3. Oversight inspections – other than Worker Protection

EPA did not schedule any oversight inspections with TDA

C. Compliance Priority – Worker Protection Standard (WPS)

1. Reports

- a. The Pesticide Worker Protection Standard (WPS) Inspection and Enforcement Accomplishment Report (Supplemental Form 5700-33H) was included in Appendix I.
- b. The FY 2012 Texas Reporting Form for Pesticide Worker Safety is supplied electronically to OECA.

2. Significant WPS Cases (FIFRA Section 27)

There were no significant WPS cases under Section 27.

3. WPS oversight inspections

There were no WPS oversight inspections.

4. WPS Case File evaluation

WPS case narrative summaries for four cases where administrative orders or other enforcement actions were taken were provided in the TDA end-of-year report. During the site review, four WPS case files were reviewed. Case file documentation supported the enforcement actions. Only one of the four case files reviewed did not assess an administrative penalty. All reviewed WPS cases had a letter of noncompliance. Pesticide safety training violations were found in two of the four case files that were reviewed. Additional violations listed included violations for: pesticide applications, central posting, and personal protective equipment.

TDA reported one case involving the death of a worker during this reporting period. This case (Case#: 00009445) was reviewed during the site visit.

5. WPS Compliance Analysis

The TDA's penalty enforcement actions above did follow TDA's Enforcement Response Policy as written by the agency. Of the total 178 inspections, there were a total of 22 violations and four cases assessed fines for the year that were reported on the WPS 5700-33H form. Of the violations found, from October 1 to August 31, 2012, there was a total of \$1,500.00 collected in fines by TDA. The WPS violations found in FY 2012 included 11 for pesticide safety training, one for failing to provide all the required supplies at the decontamination site, three for notice of application, one for early entry, and six violations of central posting; also one warning letter was issued.

TDA highlighted five WPS enforcement actions in their end-of-year report. During the site review, four WPS case files were reviewed. Case file documentation supported the enforcement actions.

During this reporting period, TDA reported one human exposure involving two persons, but did not involve workers or handlers.

D. Inspection and Enforcement Support

1. Training

TDA has several inspectors with Federal EPA FIFRA credentials. FIFRA Inspections conducted with Federal credentials are being sent to EPA for review, and are being logged into EPA Region 6's tracking system for federal inspections. The Region 6 Pesticide Enforcement Team conducts inspector trainings for those with Federal EPA credentials, and inspections conducted by these inspectors are reviewed by EPA Region 6.

2. Enforcement Response Policy

TDA's Pesticide Administrative Penalty Matrix was finalized on June 9, 2000. Texas Agriculture Code (the Code), 76.155 confers administrative penalty authority to the TDA. Section 76.1555(b) requires the TDA to "...establish a schedule stating the types of violations possible under Chapters 75 and 76 of this code and the maximum fine applicable to each type of violation. Pursuant to the provisions of Chapter 76 of the Code, the department has primary responsibility and authority for regulating pesticides in the State of Texas." "TDA may assess penalties not to exceed \$2,000 for each violation, provided that the penalty does not exceed \$4,000 for all violations related to a single incident." TDA uses their existing penalty matrix to assess fines in all cases.

3. Neutral Inspection Scheme

TDA uses a neutral inspection scheme for producer establishment inspections. The EPA Region 6 Pesticides Section supplies a listing of all pesticide producing establishments from EPA's Section Seven Tracking System (SSTS) database.

TDA Regional Offices are assigned prime targets for Section 7 establishment inspections. Texas has over 600 registered Section 7 establishments. TDA focused on those producer establishments that were listed as cancelled by EPA.

4. Inspection and Enforcement Procedures

TDA separates their enforcement group and their inspection group as a function of their organization. The Pesticide Division has field inspectors that conduct inspections, then each regional office forwards inspection reports to the Enforcement Section in the Legal Affairs and General Council's office for civil penalty and administrative actions.

EPA did not conduct any joint inspection with TDA in FY 2012. For those inspections that EPA requested narrative reports, TDA provided them.

5. Quality Assurance

TDA reported one problem in their FY 2012 Quality Assurance (QA) Annual Report. The QA Program final report was sent to EPA Region 6 Pesticides Section in June

2012. TDA reported a problem with sample matrix interference for samples requiring dilution for LC-MS/MS analyses. The laboratory is currently developing and employing new extraction and cleanup methods to negate the matrix interference associated with LC-MS/MS extracts.

a. QA Audit

A QA audit was not conducted.

b. Other QA observations

There were no QA observations.

c. Laboratory visit summary

EPA Region 6 Pesticides Section did not conduct a laboratory visit.

E. Special activities requested by EPA Region 6

EPA Region 6 Pesticides Section requested two import inspections. Inspections were completed in a timely manner.

F. State-specific priority work

TDA is not undertaking any State-specific priority work.

G. New Legislation and Regulations

There have been no recent changes in legislation or regulations or the state.

H. Action Items from Previous Midyear Review

EPA had no recommendations from the previous Midyear Review.

I. Conclusions and Recommendations for Compliance/Enforcement

There are no formal recommendations for the Enforcement program at this time.

V. PROGRAMS

A. Worker Safety

1. Certification and Training of Pesticide Applicators

a. Previous Recommendations:

No previous recommendations were made.

b. Accomplishments

i. Work-Plan Commitments and National Program Priorities

For FY 2012, TDA reported in the certification plan and reporting database (CPARD) certifying **1,624** commercial applicators and **2,750** private applicators. In addition, TDA recertified **18,129** commercial applicators and **4,605** private applicators during this reporting period. Overall, TDA has a total of **20,813** commercial applicators and **42,347** private applicators. There are 2,984 more applicators compared to the FY 2011 total of 60,176.

TDA did not report any licenses revoked or suspended during this reporting period. TDA assessed financial penalties to 72 commercial applicators and 29 private applicators. They also issued non financial penalties (warning, advisory letters, etc.) to 104 commercial applicators and 11 private applicators.

The FY 2012 end of year report states that TDA monitored 14 agricultural recertification/training programs and four structural recertification/training programs. TDA also accredited 718 continuing education unit (CEU) courses for recertification during FY 2012. TDA approved 2,725.5 CEU hours during this reporting period. TDA continued working with Texas AgriLife Extension to develop pools of questions that can be used for recertification examinations.

TDA continues to explore and evaluate the feasibility of ways to streamline computer training and testing for agriculture pesticide licensees. TDA looks to streamline the Structural Pest Control Service exam process to provide applicators and TDA with a more efficient exam process through computer-based testing. Although collaboration with the State Extension service has not been ruled out, new obstacles have arisen. The primary obstacle is the Extension's distance learning infrastructure. As a result the final product may be a much larger collaboration effort that may also include the community colleges and county extension services.

In FY 2012, TDA made brochures and other pesticide licensing and enforcement informational materials accessible on the TDA portal to allow inspectors in the field to access a copy when needed in remote locations.

TDA staff meets regularly with the Agricultural and Environmental Workgroup of Texas AgriLife Extension to discuss pesticide applicator certification issues. Coordinators talk and/or exchange emails frequently to discuss issues related to the Worker Safety Programs.

ii. **Additional Program Activities**

TDA has been working on enhancing their certification and training state plan by adding use category definitions to administrative rules, providing a computer-based examination process, adding a category for soil fumigation and eliminating the category for tributyltin oxide for marine anti-fouling. TDA plans to have these changes finalized and implemented by FY 2013.

In an effort to make up for their shortfall in funding, TDA consulted with the Region to discuss options for outsourcing the testing portion of their certification and training to the University Extension Service. Ms. Sheila Broadnax, EPA Region 6 Pesticides Grant Specialist, verified with Region 8 that other state lead agencies such as North Dakota Department of Agriculture had delegated their certification and training program to the North Dakota State University (Service Extension). TDA stated they will look more into this option.

TDA staff members had the opportunity to attend and participate at EPA's PREP intermediate/advanced pesticide registration course in Arlington, VA, on July 2012. The goal of this course was to gain better understanding of OCSPP processes and how OCSPP makes registration decisions, with emphasis on how risk management decisions are incorporated into the label.

c. **State/Tribe Feedback**

The State did not provide any feedback on the EPA's Certification and Training program.

d. Conclusions and Recommendations

There are no formal recommendations for the Certification and Training program at this time.

2. Worker Protection Standard (WPS)

a. Previous Recommendations

There were no previous recommendations in the WPS program.

b. Accomplishments

i. Work-Plan Commitments and National Program Priorities

TDA continues to focus on activities that support the Worker Protection Standard (WPS) rule. The TDA training of workers and handlers continues to be a priority, along with distributing pesticide safety information in conjunction with their Certification and Training Programs. The TDA issued 2,813 handler cards and 4,806 worker cards during this reporting period. There were 15 worker/handler safety trainings and two of them were conducted in Spanish by TDA staff. TDA supplied EPA with a listing of all WPS Safety Training conducted by them, outlining date, inspector (trainer), region held, city, county, type of training (worker or handler), and number of people in each training (FY 2012 End of Year Report to EPA, pg 7).

The TDA meets with the Texas AgriLife Extension on a regular basis to discuss their activities related to the Worker Protection Standard Program in Texas. The TDA inspectors routinely distribute EPA worker/handler training materials and the pesticide exposure brochure at worker/handler training sessions. These materials are also distributed during the laws and regulations presentations at the various CEU programs across the state.

The EPA has continued to support the distribution of WPS outreach materials that were developed with the cooperation of TDA and farmworkers in El Paso, Texas. The Region acknowledges and appreciates the TDA efforts to make these materials available to the farmworkers in Texas. These efforts have provided valuable information to farmworker related to the risk of take-home exposures to pesticides.

TDA continues to make WPS information available to the various migrant health clinics and public health agencies when requests are received. TDA inspectors in the Rio Grande Valley continue to conduct worker/handler training programs at the various migrant advocacy groups when requested. TDA has also made available an updated list of resources for the protection of agricultural workers in Texas in English and Spanish through their website.

ii. Additional Program Activities

There are no additional program activities.

c. State Feedback

The TDA did not provide feedback during this reporting period.

d. Conclusions and Recommendations

There are no recommendations at this time.

B. Water Quality

1. Previous Recommendations

There were no previous recommendations in the Water Quality program.

2. Accomplishments

a. Work-Plan Commitments and National Program Priorities

The Pesticide Division of TDA continues to collaborate with the Texas Commission on Environmental Quality (TCEQ), Texas Department of State Health Services (DSHA), and Texas Parks and Wildlife Department to track pesticide impacts on water quality in Texas. TDA does not conduct water sampling for pesticide monitoring; however, TDA monitors complaints, assessments and reports on state's groundwater and surface water. There were no new reports on pesticide contamination of groundwater or surface water incidences of pesticide impairments in Texas. There were also no complaints of pesticide drift into surface water.

TDA works with the Texas Commission on Environmental Quality (TCEQ) to protect ground and surface water in Texas. All Texas databases were identified that contained methods and pesticides of interest in Texas. This was in completion of a request from EPA for the water performance measures. Databases of water samples from the state that showed pesticides in water helped TDA and TCEQ identify pesticides of interest (POI's) in Texas. TDA was not made aware of any new reports of pesticide contamination of groundwater in FY2012. The subcommittee, TDA and TCEQ jointly completed evaluating the 57 pesticides recommended by EPA and the data has been completed in POINTS. The subcommittee will revise the pesticide evaluations as needed when new data is available.

TDA staff participated in several EPA meetings and conference calls on development of the NPDES Pesticide General Permit. TDA is also worked with TCEQ on the development of a Texas discharge general permit. Staff provided

input and comments to EPA on the Texas permit drafts. The state TPDES permit was approved by EPA and is currently being implemented by TCEQ. No adverse incidents have been reported to TDA since the inception of this program due to the use of pesticides that resulted in unintended consequences in water ecosystems. There were also no reported violations of the TPDES Pesticide General Permit, no incidences of pesticide impairments in surface water, no known complaints of pesticide drift into surface waters or any adverse effects due to pesticide applications affecting surface waters reported to TDA. To date all pesticide TMDLs are for legacy pesticides with natural attenuation being selected as the preferred method of remediation.

c. Additional Program Activities

The summer of 2012 was the worst outbreak of West Nile virus in Texas history with 66 human deaths attributed to the virus to date. TDA worked with the Texas Department of State Health Services (TDSHS) to coordinate activities, inquiries, information dissemination and media coverage to address concerns related to the control of mosquitoes with pesticides. TDA responded to inquiries from the public, stakeholders and others regarding the use of pesticides to control mosquitoes to combat West Nile. Aerial applications of an insecticide (Duet/Clark Mosquito Control Products Inc.) were conducted in various counties and communities in the north and northeast areas of Texas. With aerial applications being conducted, concerns expressed by the public included the effects of the pesticide in waterways and to aquatic life. TDSHS provided an extensive resource of information on its web site and through other mechanisms to address a host of issues, including effects on fish and waterways.

The Pesticide Complaint Manual section on fish-kill investigations and pesticide use was also updated to reflect jurisdictional issues with Texas Parks and Wildlife.

3. State Concerns

TDA did not express any concerns.

4. Conclusions and Recommendations

There are no recommendations at this time.

C. Endangered Species

1. Previous Recommendations

There were no previous recommendations.

2. Accomplishments

a. Work Plan Commitments and National Program Priorities

In FY 2012, TDA coordinated with the US Fish & Wildlife Service (USFWS) and Texas Parks & Wildlife Department for the reintroduction of the black footed ferret. The purpose of this is to assist Texas ranchers, farmers and landowners to control the black-tailed prairie dog and minimize the use of pesticides.

TDA continues to participate in the Edwards Aquifer Recovery Implementation Program, which intends to enhance the Edwards Aquifer and preserve endangered species. In addition, TDA has been involved in the Interagency Taskforce's Project, the USDA-NRCS Wildlife Subcommittee of the Texas State Technical Advisory Committee and with other federal/state groups to provide technical assistance on conservation issues regarding endangered species.

TDA continued providing information pertaining to endangered Species through their website and CEUs for pesticide applicators. Also, TDA's website provides links to EPA's endangered species program website.

The Office of Chemical Safety and Pollution Prevention (OCSPP) developed and issued new endangered species bulletins for the use of Rozol rodenticide to 25 West Texas counties. TDA has been participating in conference calls, exchanging information with the Region/states, reviewing and providing feedback to OCSPP. TDA has also taken the initiative to work closely with USFWS in Arlington, TX in an effort to understand the program and educate inspectors and the public about the proper use of Rozol.

b. Additional Program Activities

TDA did not complete additional endangered species program activities.

3. PART Review Measures

There were no endangered species PART measures required.

4. State Changes

TDA did not have any state changes in 2012

5. Conclusions and Recommendations

We encourage TDA to stay abreast of the latest endangered species bulletins for the use of Rozol and Kaput rodenticides and interact with other natural resource agencies since the bulletins for the Aplomado Falcon are now enforceable in some counties in Texas. The restrictions may affect agriculture greatly in those counties.

D. Regulatory Exemptions and Experimental Use Permits

In an effort to control Basil Downy Mildew, TDA submitted a request for two FIFRA Section 18 emergency exemptions, 12TX06 & 12TX07, to use Ranman Fungicide.

E. Container and Containment Rule Implementation

1. Previous Recommendations

On August 16, 2006, EPA published final regulations that establish standards for pesticide containers and containment structures. The regulations establish requirements for pesticide container design in addition to procedures, standards, and label language to facilitate removal of pesticides from containers prior to disposal or recycling. The regulations also established requirements for containment structures to intercept and contain spills and leaks of pesticides in areas where pesticides are stored in large stationary containers and where refillable containers are refilled or cleaned.

In January 2008, TDA submitted documentation to Region 6 demonstrating it has the legal authority to conduct compliance monitoring and take enforcement actions as necessary to carry out FIFRA Section 19. Subsequently, the Container-Containment (CC) Rule went into effect on August 2009; however the States had the option to do compliance assistance in 2009-2010 and move into implementation and enforcement in 2011. Therefore, the Region strongly encourages TDA to consider implementing and enforcing the CC Rule program. EPA welcomes TDA's feedback or inquires pertaining to this rule.

2. Accomplishments

TDA continues to educate pesticides applicators and the industry about the Container-Containment rule by distributing outreach material and sharing information through their website. During FY 2012, there were no inspections reported.

3. Conclusions and Recommendations

EPA supports TDA's current compliance strategy for the CC Rule. EPA also expects that the TDA will move into implementation and enforcement of the CC Rule in 2013. Based on TDA's Determination of Adequacy for Pesticide Residue Removal letter dated January 9, 2008, there is an expectation that TDA will conduct Container inspections, make referrals, or take enforcement action as outlined in Attachment 1 of the letter.

At this time TDA does not have any CC Rules for Containment and will be enforcing the federal regulations. The latest implementation guidance for the Containment portion of the CC Rule, dated October 25, 2007, states that the specific enforcement alternatives available for this scenario are as follows: 1) The State or Tribe could conduct inspections of containment structures at regulated facilities using Federal FIFRA credentials and would refer violations to the Region for enforcement action; and 2) The Region could conduct inspections of containment structures at regulated facilities and take enforcement action under FIFRA. Please see attached guidance document referenced above.

We request that TDA notify EPA Region 6 of their anticipated approach for implementing pesticide containment regulations. The notification can be an e-mail or letter to the EPA Region 6 Project Officer from the head of the appropriate division/section within the TDA. This is not a binding commitment and TDA may decide to change its approach after submitting the letter. If this happens, EPA requests that TDA notify EPA Region 6 Project Officer in the same manner as the initial notification.

EPA is prepared to assist TDA with technical training of state inspectors, developing a state inspection checklist and compliance strategy. Part of the compliance strategy could consist of incorporating CC Rule inspections into TDA's producer establishment routine inspections. EPA is planning further discussion on this matter during mid-year review and workplan negotiations.

F. Other Programmatic Activities

TDA did not complete any additional programmatic activities.